



IN THE 27TH JUDICIAL CIRCUIT, HENRY COUNTY, MISSOURI

Judge or Division: M BRANDON BAKER	Case Number: 22HE-CC00029
Plaintiff/Petitioner: SPENCER BOYER	Plaintiff's/Petitioner's Attorney/Address JAMES CHARLES JOHNS 102 W JEFFERSON P O BOX 309 CLINTON, MO 64735
vs.	Court Address: 100 W FRANKLIN ROOM 212 CLINTON, MO 64735
Defendant/Respondent: LIFE INSURANCE COMPANY OF NORTH AMERICA	
Nature of Suit: CC Other Tort	

(Date File Stamp)

Summons in Civil Case

The State of Missouri to: **LIFE INSURANCE COMPANY OF NORTH AMERICA**
Alias:

D/O DIVISION OF INSURANCE
1601 CHESTNUT, TWO LIBERTY PLA
PHILADELPHIA, PA 19192



HENRY COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

APRIL 1, 2022

Date

PATRICIA L. DOLL BY SLR

Clerk

Further Information:

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above Summons by: (check one)

delivering a copy of the summons and petition to the defendant/respondent.
 leaving a copy of the summons and petition at the dwelling house or usual place of abode of the defendant/respondent with _____, a person at least 18 years of age residing therein.
 (for service on a corporation) delivering a copy of the summons and petition to: _____ (name) _____ (title).
 other: _____

Served at _____ (address)

in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

(Seal)

Subscribed and sworn to before me on _____ (date).

My commission expires:

Date

Notary Public

Sheriff's Fees, if applicable

Summons \$ _____

Non Est \$ _____

Sheriff's Deputy Salary \$ 10.00

Supplemental Surcharge \$ _____ (_____ miles @ \$.____ per mile)

Mileage \$ _____

Total \$ _____

A copy of the summons and petition must be served on each defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

IN THE CIRCUIT COURT OF HENRY COUNTY, MISSOURI
CIRCUIT DIVISION

SPENCER BOYER,)
Plaintiff)
)
Vs.) Case No. _____
)
LIFE INSURANCE COMPANY OF NORTH AMERICA,)
Defendant)

SERVE: Registered Agent: Division of Insurance
1601 Chestnut
Two Liberty Place
Philadelphia PA 19192

PETITION

Comes now the Plaintiff, Spencer Boyer, by and through his attorney, and for his Complaint against Defendant, Life Insurance Company of North America (hereinafter referred to as Insurance Company), states and alleges as follows:

1. Plaintiff is an individual and resident of Windsor, Henry County, Missouri.
2. Defendant, Life Insurance Company of North America, is a Pennsylvania insurance company organized and existing under the laws of the State of Pennsylvania. Said Insurance Company is authorized to conduct business and does conduct business throughout the State of Missouri.
3. Plaintiff is the natural father of Devin T. Boyer. Devin T. Boyer was killed as a result of a motor vehicle accident occurring in Henry County, Missouri on or about July 24, 2021, thus giving this Court jurisdiction and venue over this cause.

4. At the time of his death, Devin T. Boyer was a resident of Henry County, Missouri, was not married and had no children. Devin T. Boyer was survived by the Plaintiff herein, as well as, his mother, Katie Jo Boyer.

5. Devin T. Boyer was the recipient and insured of a Group Accidental Death Insurance benefit through his employment with Duke Manufacturing of Sedalia, Missouri, same bearing Duke Manufacturing policy OK 970570.

6. Said policy of insurance provided coverage according to its terms, including but not limited to, coverage for accidental death benefits. Plaintiff is a named beneficiary of said policy.

7. On or about July 27, 2021, Devin T. Boyer died as a result of injuries sustained in the motor vehicle accident of July 24, 2021. Said loss was covered under the terms of the aforesaid policy.

8. On November 22, 2021, the Circuit Court of Henry County, Missouri in Case No. 21HE-CC00046 entered its Judgment whereby it was determined that Devin T. Boyer died as a result of an accident. See attached Judgment as Exhibit "A".

9. Insurance Company has failed and refused to accept coverage for and to pay the sums owed under the terms of the policy.

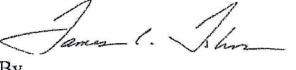
10. Insurance Company's refusal to accept coverage and pay the sums owed under the terms of the policy is without just cause or excuse and vexatious entitling Plaintiff to additional damages pursuant to Missouri law.

WHEREFORE, Plaintiff prays the Court make and enter its order granting it judgment against Insurance Company in such sums as are deemed to be owed under the policy as referenced hereinabove; for his attorney fees and for additional damages for vexatious refusal; and, for such

other relief as the Court deems just and appropriate.

JOHNS, MITCHELL, DUNCAN & LOWE, LLC

By



James C. Johns
Missouri Bar No. 29711
102 West Jefferson
P. O. Box 309
Clinton, MO 64735
660-885-6161
Facsimile: 660-885-5411
johns@jmdllaw.com

Attorney for Plaintiff

IN THE CIRCUIT COURT OF HENRY COUNTY, MISSOURI

SPENCER BOYER, individually
and on behalf of class members
under 537.080 R.S.Mo.,

FILED

NOV 22 2021

PATRICIA L. DOLL
CIRCUIT CLERK, HENRY CO., MO

Plaintiff,

v.

Case No.: 21HE-CC00046

COLE A. PAXTON,

Defendant.

JUDGMENT

NOW ON THIS 22nd day of November, 2021, this cause comes on regularly to be heard by the Court. Plaintiff appears personally, individually and on behalf of the class of individuals defined in RSMo. §537.080(1) and with Counsel. Defendant Cole Paxton appears by counsel. The parties waive trial by jury, and submit to the Court the Plaintiff's Application for Approval of Wrongful Death Settlement and for Order Under RSMo. Section 537.095, arising out of the death of Decedent Devin Boyer.

Court finds that Devin Boyer died as a result on an accident while an occupant of a motor vehicle being operated by Cole A. Paxton. Statements of counsel and plaintiff having been presented to the Court, and after reviewing the pleadings and reviewing the testimony of the witnesses, the Court finds that the settlement as described in the Application for Approval of Wrongful Death Settlement and for Order under RSMo. Section 537.095 is fair and reasonable, and shall be approved.

The Court further finds that Plaintiff Spencer Boyer and Katie Jo Boyer are the only parties, as defined in RSMo. §537.080(1), having a cause of action for the wrongful

EXHIBIT

death of Decedent Devin Boyer. The Court further finds that Katie Jo Boyer has filed herein her verified Waiver of Right to Participate in Case for Distribution of Any Settlement Proceeds.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the proposed settlement for the injuries and resulting wrongful death claims of Plaintiff Spencer Boyer and Katie Jo Boyer for the wrongful death of Decedent Devin Boyer is hereby authorized and approved in the amount of Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) to paid to Plaintiff Spencer Boyer.

IT IS FURTHER ORDERED that out of the sum paid to Plaintiff Spencer Boyer, the Court finds that \$83,333.00 be paid to Plaintiff Spencer Boyer's attorneys, Johns, Mitchell, Duncan & Lowe LLC, and the Court finds that such amount is fair and equitable under the circumstances.

IT IS FURTHER ORDERED that plaintiff, individually and on behalf of the class of individuals as defined in RSMo. § 537.080(1) is authorized and directed to execute a Release, releasing defendant Cole Paxton of any and all claims arising out of the death of Devin Boyer.

IT IS FURTHER ORDERED that plaintiff shall collect and receive payment as stated in this Judgment, issue a receipt to the settling defendant, acknowledge satisfaction of this Judgment, wherein defendant Cole Paxton, shall be discharged, and his insurance carrier shall distribute the net proceeds as ordered by this Court per this Judgment, and to make a report and accounting to this Court.

IT IS FURTHER ORDERED that upon payment of the aforesaid sum defendant Cole Paxton shall be fully discharged from all liability owed to any persons arising out of the death of Devin Boyer as provided by RSMo. §537.080(1).



JUDGE OF THE CIRCUIT COURT

Attest a true copy: 11-22-2021